

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JEAN AZOR-EL, *et al.*,

Plaintiffs,

-against-

CITY OF NEW YORK, *et al.*,

Defendants.
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**DECLARATION OF
PATRICIA YANG IN
OPPOSITION TO
PLAINTIFFS' MOTION FOR
A PRELIMINARY
INJUNCTION**

No. 20 CV 3650 (KPF)
No. 20 CV 3978 (KPF)
No. 20 CV 3980 (KPF)
No. 20 CV 3981 (KPF)
No. 20 CV 3982 (KPF)
No. 20 CV 3983 (KPF)
No. 20 CV 3985 (KPF)
No. 20 CV 3990 (KPF)

PATRICIA YANG, DrPH, declares that the following statements are true,
pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury:

1. I am the Senior Vice President for Correctional Health Services ("CHS"), a division of NYC Health + Hospitals. I have held this position since June 29, 2015, when CHS was established as a division and I was appointed a corporate officer. I am responsible for overseeing all aspects of the provision of health care to individuals in the custody of the New York City Department of Correction ("DOC"), i.e., correctional facilities operated by the City of New York ("City"). I have extensive experience managing public health and health care agencies and setting public health policy and priorities, including serving as the Director of Health Policy in the Office of the NYC Mayor and as Executive Deputy Commissioner of Health and Chief Operating Officer for the NYC Department of Health and Mental Hygiene. I have also served as First Deputy Commissioner and as Acting Commissioner of Health in Westchester County, New York; and have held senior positions at Metropolitan Hospital Center and Bellevue Hospital Center, both part

of NYC Health + Hospitals. I hold a Doctorate in Public Health with Distinction from Columbia University. The information set forth in this affidavit is based on my personal knowledge, the business records maintained by CHS, information learned from my colleagues, and directions given to my staff in the course of my current work at CHS. This affidavit is provided to explain the protocols and actions that CHS has taken and is continuing to take to provide health care in the wake of the COVID-19 pandemic to those currently in DOC's custody.

2. CHS is one of the nation's leading correctional health care systems in the nation and is an essential partner in the City's criminal justice reform efforts.

PREPAREDNESS

3. In early 2020, CHS realized the possible threat posed by the COVID-19 virus to the City's jail population. Viral spread was anticipated because jails, by definition, are places of congregate living, often with movement of people in and around congregate living spaces, and the possible introduction of new sources of transmission by staff and with each new admission to the jails. CHS followed and continues to follow the evolving federal, state, and city public health guidance.

4. As the potential scope and impact of the COVID-19 pandemic on the City's jails became clearer, CHS took and continues to take aggressive steps to reduce the likelihood of transmission and exposure that reflect the uniqueness of our environment.

5. Throughout the evolution of the pandemic, CHS has been pivotal in identifying patients whose underlying medical conditions put them at greater risk for severe course of disease should they contract the virus. CHS continues to put forward these individuals for consideration for release from detention.

SCREENING

6. CHS instituted screening during the pre-arraignment process at central booking facilities to identify individuals with specific conditions that put people at greater risk of poor outcomes if they contract COVID-19.

7. To help keep ourselves and our patients healthy, CHS and DOC have established screening of staffs of both agencies prior to beginning tours of work. Both CHS and DOC staffs are expected to self-screen and exercise proper preventive and protective measures while at work. CHS and DOC staffs are all screened before the beginning of every tour of work for symptoms of COVID-19. Individuals exhibiting symptoms are not permitted to report to duty. PCR testing is also available to staffs of CHS and DOC free-of-charge on Rikers Island.

8. To lower the risk of transmission to the community by people being released from custody, DOC brings people for CHS to screen for COVID-19 symptoms prior to discharge, including those who may need accommodations in which they can self-isolate upon release. Individuals determined to need to self-isolate and do not have a place to do so, are offered hotel accommodations.

9. CHS provides a full health screening upon intake to every individual admitted to a City jail. Part of this intake screening includes identifying medically vulnerable patients who may be placed in specialized therapeutic housing units, as most ordinarily would have been even absent the COVID-19 pandemic. CHS has made it part of its mission to identify and especially protect these individuals from exposure to the COVID-19 virus.

HOUSING

10. Pre-COVID-19, CHS maintained therapeutic housing units for persons with medical, mental health, and/or substance use issues. With the emergence of COVID-19, CHS created additional therapeutic housing units specifically for patients on the COVID spectrum. In

all these instances, CHS identifies when a patient needs to be therapeutically housed and requests DOC to effectuate the transfer of housing, for which DOC is responsible.

11. CHS is unique in having a communicable disease unit (CDU) of 88 beds.

12. In response to COVID-19, CHS created a spectrum of therapeutic housing based on vulnerability to COVID-19. CHS separately houses and monitors patients who are most vulnerable to serious complications should they contract the virus; patients who are asymptomatic but have a known exposure; patients who have COVID-19 like symptoms; and patients who have tested positive for COVID-19. In each of these scenarios, CHS makes the housing recommendation to DOC, which manages patient movement and is responsible for implementing the recommendation.

13. In anticipation of the need for surge capacity, CHS and DOC work together on an ongoing basis to identify other housing units conducive to housing patients with symptoms and/or the disease.

14. The Eric M. Taylor Center (EMTC), which had closed several months earlier, was used as the surge medical facility to treat and monitor male patients who were suspected of having the COVID-19 virus and those who were confirmed to have it. Over the summer of 2020, when the number of persons in DOC custody who were suspected of having the COVID-19 virus and those who actually had COVID-19 were relatively low, EMTC was closed.

15. With the recent resurgent outbreak of COVID-19, EMTC has again been reopened to house persons confirmed with COVID-19 but now also serves as a central intake building where patients newly admitted to the system are cohorted until they undergo exit testing.

16. Female patients who have COVID or are suspected to have COVID are housed at the Rose M. Singer Center (RMSC) or CDU.

TESTING

17. CHS' COVID-19 testing protocols are aligned with local, state, and federal guidelines.

18. Testing strategy is also guided by local epidemiology and laboratory capacity and availability of supplies.

19. CHS currently receives test results back within 1-3 days depending on laboratory capacity.

VACCINATION

20. The Food and Drug Administration (FDA) has approved Emergency Use Authorization for COVID-19 vaccines produced by Pfizer-BioNTech and Moderna as safe and effective at protecting people from getting COVID-19.

21. CHS was permitted to offer the COVID-19 vaccination to its staff beginning December 28, 2020 when they were recognized as "1a" health care workers for the purpose of vaccine administration.

22. On January 6, 2021, CHS secured state approval and became the first correctional facility and only jail in New York State to offer COVID-19 vaccinations to highest risk persons entrusted in its care by arguing that they were clinically analogous to residents of community-based facilities operated by DOH, OMH, OASAS, OMRDD, all of which had been approved by the State for priority 1a group vaccination.

23. To date, CHS has been able to offer the Pfizer-BioNTech COVID-19 vaccine to approximately 500 of the eligible highest-risk patients in city jails, and as of January 27, 2021,

259 patients had received the first does of the vaccine. CHS' efforts to counsel and educate patients about the vaccine continue.

24. In addition, CHS voluntarily stepped forward on January 12, 2021 to begin offering the vaccine to staff of the Department of Correction (DOC) the day after the Governor opened eligibility to "1b". CHS did so in recognition of the importance of its partnership with the NYC DOC. CHS' efforts ceased when the City was able to secure a private vendor to take over this responsibility on January 24, 2021.

ACCESS

25. As was true during the first wave of the COVID-19 pandemic, access to core services was not and has not been diminished.

26. In housing units where CHS staff are not embedded, there are multiple avenues by which patients may reach out to CHS to obtain or request information or discuss a health concern. All start with a phone call to CHS or a request to DOC to bring them to a CHS clinic.

27. Patients anywhere in the system can call from their housing units with any complaints or concerns, 5 days a week from 5am-10am.

28. After receiving any such call, if CHS determines that the patient needs to be seen in-person, CHS asks DOC to escort the patient to clinic. CHS has created separate traffic flows to create a physical separation for patients coming to clinic with COVID-like symptoms.

29. If a patient requires a higher level of care than can be safely provided in the jails – whether related to COVID-19 or not – CHS leverages its relationship with Bellevue Hospital or Elmhurst Hospital for such care on an outpatient or inpatient basis.


30. CHS continues to provide high quality medical, mental health, and substance use care unrelated to COVID-19, including intake, sick call, and follow-up.

CONCLUSION

31. Despite our best efforts to identify, test, vaccinate, quarantine, isolate, and decarcerate, the jail system remains a particularly challenging environment for managing the COVID-19 pandemic. Jails, by definition, are places of congregate living, with the unavoidable movement of people in and around shared living spaces, and the introduction of potential sources of transmission by staff and individuals newly admitted to the jails. Transmission of infectious disease is a known risk in such settings and it continues as we face the upsurge of the second wave of the COVID-19 pandemic.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
January 29, 2021



PATRICIA YANG, DRPH
Senior Vice President, NYC Health +
Hospitals
Correctional Health Services